

1. Heard Shri Tayade - learned Counsel appearing for the petitioner. With his assistance, perused the application filed by the respondent - wife for maintenance, the reply thereto and the order passed thereon.
2. The only submission of Shri Tayade is that the Court below has proceeded upon the basis that the petitioner was running cloth business and garment shop and income derived therefrom is taken into account while determining the quantum of maintenance. His submission is that the

petitioner is the salaried employee in the said shop. Therefore, the quantum of maintenance ought to have been determined taking into consideration this position.

3. In my view, the application for maintenance being filed in August, 2003 and the order impugned in this Petition delivered on 30th September, 2005, without showing his bonafides, the petitioner cannot have a liberty of going on litigating and disputing the liability to pay interim maintenance. However, after taking instructions from the petitioner Shri Tayade states that the petitioner would show his bonafides by depositing a sum of Rs.50,000/- (Rs.Fifty Thousand Only) in the trial Court within a period of two weeks from today. Liberty is granted to the respondent - wife to withdraw this amount.

4. Upon such deposit being made and proof thereof furnished to the trial Court, it would be

open for the petitioner to apply for modification and variation of the interim order and needless to observe that such application being made should be dealt with on its own merits and in accordance with law, uninfluenced by the observations in the impugned order. Needless to further state that if the amount is not deposited, as agreed, the quantum determined by the trial Court would not be interfered and the petitioner would be bound and liable to pay the amount of Rs.5000/- as directed by the trial Court, per month, as maintenance till the final conclusion of the proceedings. Petition disposed of.

5. Shri Tayade has invited my attention to Page-37 of the Petition, wherein it is pointed out that the petitioner has closed-down his cloth and garment business (shop) and thereafter he is working as a salaried employee in some other garment shop.

(S.C.DHARMADHIKARI, J)